IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1904.

GEORGE F. HARDING, *Plaintiff in Error,* vs. **THE PEOPLE OF THE STATE OF ILLINOIS,** *Defendant in Error.*	No. 61.

Motion to dismiss the writ of error in the above entitled cause and to affirm the judgment of the Supreme Court of Illinois under rule 6, Section 5.

The People of the State of Illinois, defendant in error, by Robert S. Iles, its attorney, moves that the writ of error of the plaintiff in error to the Supreme Court of the United States in the above entitled cause be dismissed and that the judgment of the Supreme Court of the State of Illinois be affirmed; and respectfully submits the following reasons why the motion should be granted:

1st. An examination of the record in this cause discloses the fact that no constitutional question under the Constitution of the United States is involved in said cause.

a. The action is an action in debt for taxes under the laws of the State of Illinois. And the questions at issue were (1) the validity and amount of the tax, (2) the ownership of the property taxed at the date when the lien of the taxes attached thereto.

Plaintiff's declaration, pages 8-9 of record.
Defendant's Special Demurrer, pages 10-11 of record.
Decision of the Supreme Court of the State of Illinois, pages 111-112-113 of record.

b. These issues were all raised, tried and decided in the trial court and the Supreme Court of the State of Illinois.

See decision of Supreme Court of Illinois, *supra.*

c. The chief question urged in the trial court and the Supreme Court was in relation to the ownership of the property taxed which question was decided upon a full hearing.

See decision of Supreme Court of Illinois, *supra.*

2nd. The question of the constitutionality of the statute under which the action was brought was only raised by formal assignment of error in the court below, and was not urged in the Supreme Court of Illinois by the defendant in error by argument or otherwise.

The decision of the Supreme Court of Illinois is as follows:

> "It is also said that the foregoing section of the statute under which the action is brought is unconstitutional, but no authorities are cited or

argument advanced in support of that assertion. The point, if it can be so considered, has therefore been waived."

Decision of the Supreme Court of Illinois, page 113.

3d. It is clear from the record that the writ of error in this cause was sued out for purposes of delay only.

See rule of this court as follows:

"There may be united with a motion to dismiss a writ of error or an appeal a motion to affirm on the ground that although the record may show that this court has jurisdiction it is manifest the writ or appeal was taken for delay only or the question on which the jurisdiction depends is so frivolous as not to need further argument."

The undersigned submit that no federal question is involved in this cause, and that the writ of error herein was sued out solely for purposes of delay.

It is therefore prayed that the said writ of error of the plaintiff in error be dismissed and the judgment of the Supreme Court of Illinois be affirmed.

Notice of this motion has been served on counsel for plaintiff in error and proof of service filed with the clerk of this court.

Respectfully submitted.

ROBERT S. ILES,
Attorney for Defendant in Error.